In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.103 of 2006

Mahendran .. Petitioner

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The District Magistrate &
   District Collector
   Perambalur District
   Perambalur. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as calling for the records relating to the second Respondent pertaining to the detention order made in Cr M.P No.58/2005 dated 22.12.2005 in detaining the detenu under Tamil Nadu Act 14 of 1982 as a "Boot Legger" and quash the same and Direct the respondents to produce the said detenu namely Jayapaul Son of Perumal aged 40 years detained at Central Prison Trichy before this Hon'ble Court and set him at liberty.

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For petitioner : Mr. D. Veerasekaran

For respondents : Mr. Abudukumar Rajaratrhinam
Govt., Advocate (Crl.)

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name Mahendran, who is the brother-in-law of the detenu, challenges the impugned order of detention dated 22.12.2005, detaining Jayapaul (detenu), as "Boot-Legger" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated 03.01.2006 was received by the Government on 16.01.2006 and remarks were received on 16.01.2006. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 17.01.2006; order was passed by the Minister for Prohibition and Excise on 18.01.2006, rejection letter was prepared on 30.01.2006; the same was sent to the detenu on the same day and the rejection letter was served on the detenu on 02.02.2006. As rightly pointed out though the concerned Minister has passed an order on 18.01.2006, there is no explanation or reason for not forwarding the same to the detenu till 02.02.2006. In the absence of any explanation, we hold that the delay between 18.01.2006 and 02.02.2006 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

2. The District Magistrate &
   District Collector
   Perambalur District
   Perambalur.

3. The Superintendent
   Central Prison, Trichy.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government Public II
   Fort Saint George, Chennai - 9
   (law and order)

MF(CO)
CGS/2.5.06

Order in
H.C.P.No.103 of 2006

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